

**2013 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB445)**

Received: 1/14/2014 Received By: mgallagh  
Wanted: As time permits Same as LRB:  
For: John Nygren (608) 266-2343 By/Representing: Jennifer Malcore  
May Contact: Drafter: mgallagh  
Subject: Criminal Law - drugs Addl. Drafters:  
Occupational Reg. - misc Extra Copies: MED

Submit via email: YES  
Requester's email: Rep.Nygren@legis.wisconsin.gov  
Carbon copy (CC) to: michael.gallagher@legis.wisconsin.gov  
cathlene.hanaman@legis.wisconsin.gov

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Incorporate AA 1 & 2; address technical issues

---

**Instructions:**

See attached

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mgallagh 1/14/2014	evinz 1/14/2014		_____			
/1			jfrantze 1/14/2014	_____	lparisi 1/14/2014	lparisi 1/14/2014	

FE Sent For:

<END>

**2013 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB445)**

Received:	1/14/2014	Received By:	mgallagh
Wanted:	As time permits	Same as LRB:	
For:	John Nygren (608) 266-2343	By/Representing:	Jennifer Malcore
May Contact:		Drafter:	mgallagh
Subject:	Criminal Law - drugs Occupational Reg. - misc	Addl. Drafters:	
		Extra Copies:	MED

Submit via email: YES  
 Requester's email: Rep.Nygren@legis.wisconsin.gov  
 Carbon copy (CC) to: michael.gallagher@legis.wisconsin.gov  
 cathlene.hanaman@legis.wisconsin.gov

**Pre Topic:**

No specific pre topic given


**Topic:**

Incorporate AA 1 & 2; address technical issues

**Instructions:**

See attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mgallagh	1 eeV 4/15/14	1 eeV 4/15/14				

FE Sent For:

<END>

**Gallagher, Michael**

---

**From:** Malcore, Jennifer  
**Sent:** Monday, January 13, 2014 5:04 PM  
**To:** Gallagher, Michael; Matthias, Mary  
**Cc:** Hanus, Andrew  
**Subject:** RE: AA 2 to AB 445

Mike,

Sounds good, let's amend for both tomorrow morning.

Thank you for the follow up.

Jennifer Malcore  
Office of State Representative John Nygren Co-Chair , Joint Committee on Finance 89th Assembly District  
309 East, State Capitol  
608.266.2344

-----Original Message-----

From: Gallagher, Michael  
Sent: Monday, January 13, 2014 5:03 PM  
To: Matthias, Mary; Malcore, Jennifer  
Subject: RE: AA 2 to AB 445

You may also want to authorize the board to add additional health care facilities by rule.

Let me know.

Thanks.

Mike

---

From: Matthias, Mary  
Sent: Monday, January 13, 2014 4:16 PM  
To: Malcore, Jennifer  
Cc: Gallagher, Michael  
Subject: AA 2 to AB 445

Jenny-

I think you might want to add adult family homes (secs. 50.032 and 50.033, Stats.) and residential care apartment complexes (s. 50.034(1), Stats.) to the exemption created in AA 2. -----Basically any place people reside in where their meds are delivered to the facility and administered by the facility rather than delivered to the individual.

Mary Matthias  
Principal Attorney | Wisconsin Legislative Council | 608.266.0932 <http://legis.wisconsin.gov/lc/>

50.01(1)(a)1.

50.01(bd)

**Gallagher, Michael**

---

**From:** Matthias, Mary  
**Sent:** Monday, January 13, 2014 3:43 PM  
**To:** Gallagher, Michael  
**Cc:** Malcore, Jennifer  
**Subject:** FW: AB 445/ AA 1

Mike-

FYI. Jenny confirmed that they DO want an amendment if it is needed to ensure that the pharmacist must record the name of any person picking up a prescription who isn't required to show ID because the pharmacist knows them.

Thanks!

**Mary Matthias**  
Principal Attorney | Wisconsin Legislative Council | 608.266.0932  
<http://legis.wisconsin.gov/lc/>

---

**From:** Malcore, Jennifer  
**Sent:** Monday, January 13, 2014 3:40 PM  
**To:** Matthias, Mary  
**Subject:** RE: AB 445/ AA 1

Absolutely, I really appreciate the input!! Better now than after the bill passed!!

Thanks again,

**Jennifer Malcore**  
Office of State Representative John Nygren  
Co-Chair, Joint Committee on Finance  
89<sup>th</sup> Assembly District  
309 East, State Capitol  
608.266.2344

---

**From:** Matthias, Mary  
**Sent:** Monday, January 13, 2014 3:38 PM  
**To:** Malcore, Jennifer  
**Subject:** RE: AB 445/ AA 1

Well I might be reading it wrong, so we'll see what Mike says.

**Mary Matthias**  
Principal Attorney | Wisconsin Legislative Council | 608.266.0932  
<http://legis.wisconsin.gov/lc/>

---

**From:** Malcore, Jennifer  
**Sent:** Monday, January 13, 2014 3:34 PM  
**To:** Matthias, Mary  
**Subject:** RE: AB 445/ AA 1

- That is perfect, thanks. I thought that was accomplished under Assembly Amendment 1 but I was wrong. Hopefully it is an easy fix. I have a call into Mike also.

Thank you for your help.

**Jennifer Malcore**

Office of State Representative John Nygren  
Co-Chair , Joint Committee on Finance  
89<sup>th</sup> Assembly District  
309 East, State Capitol  
608.266.2344

---

**From:** Matthias, Mary  
**Sent:** Monday, January 13, 2014 3:33 PM  
**To:** Malcore, Jennifer  
**Subject:** FW: AB 445/ AA 1

Jenny- I got your voice mail and I am guessing what you want is what I mentioned in my e-mail to the drafter, below. Let me know...

**Mary Matthias**  
Principal Attorney | Wisconsin Legislative Council | 608.266.0932  
<http://legis.wisconsin.gov/lc/>

---

**From:** Matthias, Mary  
**Sent:** Monday, January 13, 2014 3:32 PM  
**To:** Gallagher, Michael  
**Subject:** FW: AB 445/ AA 1

Mike-

Is my reading correct? If so, I think Nygrens' office may want to add a requirement that the person's name must be recorded even if ID isn't required.

**Mary Matthias**  
Principal Attorney | Wisconsin Legislative Council | 608.266.0932  
<http://legis.wisconsin.gov/lc/>

---

**From:** Matthias, Mary  
**Sent:** Monday, January 13, 2014 3:09 PM  
**To:** Hanus, Andrew  
**Subject:** AB 445/ AA 1

Andrew-

As far as I can tell, if the pharmacist has personal knowledge of the person to whom the drug is delivered or dispensed, and that person is the ultimate user or his or her representative, the pharmacist does not have to ask for their ID or keep any record of who that person is.

Mary

**Mary Matthias**  
Principal Attorney | Wisconsin Legislative Council | 608.266.0932  
<http://legis.wisconsin.gov/lc/>



ASA to

## 2013 ASSEMBLY BILL 445

Inserts

D-Note

Sd/235/1

October 18, 2013 - Introduced by Representatives NYGREN, PETRYK, BERNIER, KRUG, NERISON, TRANEL, BORN, CZAJA, ENDSLEY, JAGLER, KAPENGA, KAUFERT, KLEEFISCH, KNOLL, KNUDSON, LEMAHIEU, MARKLEIN, MURPHY, MURSAU, MURTHA, A. OTT, PETERSEN, RIPP, SWEARINGEN, STRACHOTA, TAUCHEN, TITTL, BERCEAU, BERNARD, SCHABER, BEWLEY, DOYLE, GENRICH, KAHL, KOLSTE, JOHNSON, RICHARDS and SMITH, cosponsored by Senators HARSDFORF, COWLES, L. TAYLOR, DARLING, JAUCH, GUDUX, GROTHMAN, T. CULLEN, ELLIS, LEIBHAM, KEDZIE, PETROWSKI, LAZICH, MILLER, ERPENBACH, SCHULTZ, HANSEN and RISSER. Referred to Committee on Health.

regren

name recording

1 AN ACT *to amend* 450.19 (2) (b); and *to create* 450.11 (1b) and 450.11 (9) (bm)

2 of the statutes; **relating to:** identification presentation and monitoring for

3 certain prescription drugs *and authorizing the exercise of rule-making authority*

### *Analysis by the Legislative Reference Bureau*

Under current law, a drug, or controlled substance, is classified in one of five separate schedules. The classification is based on 1) whether there is a currently accepted medical use for the drug; 2) the drug's potential for abuse; and 3) the nature of the dependence that use of the drug may produce. Controlled substances that have a high potential for abuse and no currently accepted medical use are included in Schedule I. Controlled substances that have an accepted medical use and that have the lowest potential for abuse and produce the least dependence when compared with other controlled substances are included in Schedule V. In general, a Schedule I controlled substance may not be dispensed, even with a prescription. A Schedule II, III, or IV controlled substance may be dispensed, but only with a prescription. Any person who dispenses a Schedule II, III, or IV controlled substance without a prescription is guilty of a felony, the level of which depends on the classification of the controlled substance. Under this bill, a Schedule II or III controlled substance may not be dispensed unless the person who is picking up the drug shows his or her identification card. Acceptable forms of identification are a driver's license, a state identification card, a U.S. uniformed service card, or a U.S. passport.

Current law requires the Pharmacy Examining Board (PEB) to establish a program to monitor the dispensing of certain prescription drugs, including Schedule

**ASSEMBLY BILL 445**

II and III controlled substances and other drugs identified by the PEB as having a high potential for abuse. The program requires pharmacists or persons who prescribe prescription drugs to generate records documenting the dispensing of prescription drugs. The bill requires a pharmacist or other person who dispenses a Schedule II or III controlled substance to record the name on the identification card of the person to whom the controlled substance is dispensed.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 450.11 (1b) of the statutes is created to read:

**450.11 (1b) IDENTIFICATION CARD REQUIRED FOR CERTAIN CONTROLLED SUBSTANCES.**

(a) In this subsection, "identification card" means any of the following:

- ① An operator's license issued under ch. 343. *or under a comparable law of another state*
- ② An identification card issued under s. 343.50.
- ③ An identification card issued by a U.S. uniformed service.
- ④ A U.S. *or foreign* passport.

(b) Except when administered or dispensed directly to the ultimate user by a

practitioner, a controlled substance included in schedule II or III of ch. 961 may not be dispensed, and may not be delivered to a representative of the ultimate user, without an identification card belonging to the person to whom the drug is being dispensed or delivered.

(c) If the person to whom a drug subject to par. (b) is being delivered is not the ultimate user of the drug, the person delivering the drug may ask the ultimate user of the drug to designate a person who is authorized to pick up the drug on behalf of the ultimate user and may inform the person to whom the drug is being delivered that his or her identification is being recorded under s. 450.19.

*as provided under par. (c)*

## ASSEMBLY BILL 445

1 (d) A pharmacist is immune from any civil or criminal liability and from  
2 discipline under s. 450.10 for any act taken by the pharmacist in reliance on an  
3 identification card that the pharmacist reasonably believed was authentic and  
4 displayed the name of the person to whom the drug was being delivered if the sale  
5 was made in good faith.

6 **SECTION 2.** 450.11 (9) (bm) of the statutes is created to read:

7 450.11 (9) (bm) A violation of sub. (1b) is not punishable under par. (a) or (b).

8 **SECTION 3.** 450.19 (2) (b) of the statutes is amended to read:

9 450.19 (2) (b) Identify specific data elements, including the name on any

10 identification card presented under s. 450.11 (1b), to be contained in a record

11 documenting the dispensing of a prescription drug. In identifying specific data

12 elements, the board shall consider data elements identified by similar programs in

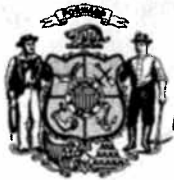
13 other states and shall ensure, to the extent possible, that records generated by the

14 program are easily shared with other states.

15 (END)

1 including the method of payment and 1 subject  
to sub. (2m) 1 the name recorded under  
s. 450.11 (1b) (bm)





State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB 1137/1  
MPG:eev&wlj:jf

ASSEMBLY AMENDMENT 1,  
TO ASSEMBLY BILL 445

January 8, 2014 - Offered by Representative NYGREN.

1 At the locations indicated, amend the bill as follows:  
2 1. Page 1, line 3: after "drugs" insert "and authorizing the exercise of  
3 rule-making authority".

4 2. Page 2, line 12: after that line insert:

5 (bm) A pharmacist or other person dispensing or delivering a drug shall legibly  
6 record the name on each identification card presented under par. (b) to the  
7 pharmacist or other person and shall maintain that record for a time established by  
8 the board by rule or, for a record that is subject to s. 450.19, until the name is  
9 delivered to the board under s. 450.19, whichever is sooner.

10 3. Page 2, line 17: delete "under s. 450.19".

11 4. Page 3, line 5: after that line insert:

12 "(e) No identification card is required under this subsection if the pharmacist  
13 or other person dispensing or delivering a drug has personal knowledge of the person

and the name of each person to whom a drug  
is dispensed or delivered subject to par. (e) 2.

21-2 together is final

1 to whom the drug is dispensed or delivered and that the person is the ultimate user  
2 or the ultimate user's authorized representative

3 (f) The board may, by rule, establish an exemption from the requirements under  
4 this subsection for the delivery of a drug by mail if the board determines that the  
5 exemption is necessary.

6 5. Page 3, line 9: delete the material beginning with "Identify" and ending with  
7 "drug." on line 11 and substitute "Identify specific data elements to be contained in  
8 a record documenting the dispensing of a prescription drug, including the method of  
9 payment and, subject to sub. (2m), the name on any identification card presented  
10 under s. 450.11 (1b)."

11 6. Page 3, line 14: after that line insert:

12 SECTION 3m. 450.19 (2m) of the statutes is created to read:

13 450.19 (2m) (a) The rules promulgated under sub. (2) may not require that a  
14 record delivered to the board before 2 years after the effective date of this paragraph  
15 .... [LRB inserts date], contain the name on an identification card presented under  
16 s. 450.11 (1b) recorded (bm)

17 (b) After consultation with representatives of licensed pharmacists and  
18 pharmacies, and subject to the approval of the secretary, the board may delay the  
19 requirement that a record delivered to the board contain the name on an  
20 identification card presented under s. 450.11 (1b) for an additional period beyond the  
21 date specified in par. (a). (bm)

22 (END)

This is Insert 3-14

This is Insert 3-5B

**2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0235/lins  
MPG:.....

1           **INSERT 2-3**

2           1. "Health care facility" means a facility, as defined in s. 647.01 (4); any  
3   hospital, nursing home, community-based residential facility, county home, county  
4   infirmary, county hospital, county mental health complex, or other place licensed or  
5   approved by the department of health services under s. 49.70, 49.71, 49.72, 50.03,  
6   50.032, 50.033, 50.034, 50.35, 51.08, or 51.09; a facility under s. 45.50, 51.05, 51.06,  
7   233.40, 233.41, 233.42, or 252.10; and any other facility identified by the board by  
8   rule.

9           2. "Identification card" means any of the following:

10          **END INSERT 2-3**

11          **INSERT 3-5 A**

12          (e) No identification card is required under par. (b) if any of the following  
13   applies:

14           1. The drug is administered or dispensed directly to the ultimate user by a  
15   practitioner.

16           2. The pharmacist or other person dispensing or delivering the drug has  
17   personal knowledge of the person to whom the drug is dispensed or delivered and  
18   that the person is the ultimate user or the ultimate user's authorized representative.

19           3. The drug is delivered to a health care facility to be administered in the health  
20   care facility.

21          **END INSERT 3-5 A**

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBs0235/1dn

MPG:.....

celv

date

Representative Nygren and Jennifer Malcore:

This substitute amendment combines and incorporates Assembly Amendments 1 and 2 to Assembly Bill 445. In addition, the substitute amendment contains the following changes, which are largely technical in nature:

1. I combined the three exceptions to the ID requirement that appear in the bill and the amendments into a single paragraph, s. 450.11 (1b) (e) in the substitute amendment.
2. I edited the language of the bill and amendments to achieve the intent that a name be recorded not only when an ID is presented but also when a drug subject to the bill is dispensed or delivered without an ID to a person known to the pharmacist or other person dispensing or delivering the drug.
3. I included a definition of "health care facility" that more accurately achieves the intent concerning the exception for a drug that is delivered to a health care facility under s. 450.11 (1b) (e) 3. in the substitute amendment.
4. I edited the relating clause to reflect the content in Amendments 1 and 2.

Please let me know if you have any questions.

Thank you.

Michael Gallagher  
Legislative Attorney  
Phone: (608) 267-7511  
E-mail: michael.gallagher@legis.wisconsin.gov



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRBa1412/1  
MPG:jld:jf

ASSEMBLY AMENDMENT 2,  
TO ASSEMBLY BILL 445

January 13, 2014 - Offered by Representative NYGREN.

\*\*\*AUTHORS SUBJECT TO CHANGE\*\*\*

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 2, line 4: after "ch. 343" insert "or under a comparable law of another
- 3 state".
- 4 **2.** Page 2, line 5: after "s. 343.50" insert "or under a comparable law of another
- 5 state".
- 6 **3.** Page 2, line 7: after "U.S." insert "or foreign".
- 7 **4.** Page 2, line 9: after "practitioner," insert "or when delivered to a health care
- 8 facility, as defined in s. 146.997 (1) (c), to be administered in the health care facility,".

9 (END)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0235/1dn  
MPG:eev:jf

January 14, 2014

Representative Nygren and Jennifer Malcore:

This substitute amendment combines and incorporates Assembly Amendments 1 and 2 to Assembly Bill 445. In addition, the substitute amendment contains the following changes, which are largely technical in nature:

1. I combined the three exceptions to the ID requirement that appear in the bill and the amendments into a single paragraph, s. 450.11 (1b) (e) in the substitute amendment.
2. I edited the language of the bill and amendments to achieve the intent that a name be recorded not only when an ID is presented but also when a drug subject to the bill is dispensed or delivered without an ID to a person known to the pharmacist or other person dispensing or delivering the drug.
3. I included a definition of "health care facility" that more accurately achieves the intent concerning the exception for a drug that is delivered to a health care facility under s. 450.11 (1b) (e) 3. in the substitute amendment.
4. I edited the relating clause to reflect the content in Assembly Amendments 1 and 2.

Please let me know if you have any questions.

Thank you.

Michael Gallagher  
Legislative Attorney  
Phone: (608) 267-7511  
E-mail: michael.gallagher@legis.wisconsin.gov